APPENDIX A
INDIANA CIVIL AND CRIMINAL RICO STATUTES

CHAPTER 30.4
CIVIL REMEDIES FOR RACKETEERING ACTIVITY

Sec. 1. As used in this chapter: "Aggrieved person" means a person who has an interest in real property or in an enterprise that:

(1) Has suffered damages or harm as a result of corrupt business influence (IC 35-45-6-2).

"Enterprise" means the same as the definition of that term found in IC 35-45-6-1.

Sec. 2. The prosecuting attorney in a county in which the violation occurs, may bring an action to enjoin a violation of IC 35-45-6-2. An action under this section may be brought in any circuit or superior court in a county in which the violation occurs. If the court finds by a preponderance of the evidence that a violation of IC 35-45-6-2 has occurred, it may:

(1) Order a defendant to divest himself of any interest in any enterprise or real property;

(2) Impose reasonable restrictions upon the future activities or investments of a defendant, including prohibiting a defendant from engaging in the same type of endeavor as the enterprise in which he was engaged in violation of IC 35-45-6-2;

(3) Order the dissolution or reorganization of any enterprise;

(4) Order the suspension or revocation of a license, permit or prior approval granted to any enterprise by any agency of the state;

(5) Order the forfeiture of the chapter of a corporation organized under the laws of Indiana, or the revocation of a certificate authorizing a foreign corporation to conduct business within the state, upon finding that the board of

directors or a managerial agent acting on behalf of the corporation, in conducting the affairs of the corporation, has authorized or engaged in conduct in violation of IC 35-45-6-2 and that, for the prevention of future criminal activity, the public interest requires the charter of the corporation forfeited and the corporation dissolved or the certificate revoked; and

(6) Make any other order or judgment that the court considers appropriate.

In any order or judgment made by the court under this section, the judge shall make due provision for the rights of innocent persons.

Sec. 3. (a) The prosecuting attorney in a county in which any of the property is located may bring an action for the forfeiture of any property used in the course of, intended for use in the course of, derived from, or realized through, conduct in violation of IC 35-45-6-1. An action for forfeiture may be brought in any circuit or superior court in a county in which any of the property is located. Upon a showing by a preponderance of the evidence that the property in question was used in the course of, intended for use in the course of, derived from, or realized through, conduct in violatio of IC 35-45-6-2, the court shall order the property forfeited to the state, and shall specify the manner of disposition of the property including the manner of disposition if the property is not transferable for value. The court shall order forfeitures and dispositions under this section with due provision for the rights of innocent persons.

(b) When an action is filed under subsection (a), the prosecutor may move for an order to have property subject to forfeiture seized by a law enforcement agency. The judge shall issue such an order upon a showing of probable cause to believe that a violation of IC 35-45-6-2 involving the property in question has occurred.

Sec. 4. (a) Property subject to forfeiture under this chapter shall be seized by a law enforcement officer upon court order. Seizure may be made without court order only if:

(1) The seizure is incident to a lawful arrest or search, or to an inspection under an administrative inspection warrant; or

(2) The property subject to seizure has been the subject of a prior judgment in favor of the state in a forfeiture proceeding under this chapter.

(b) When property is seized under subsection (a), pending forfeiture and final disposition, the law enforcement officer making the seizure may:

(1) Place the property under seal;

(2) Remove the property to a place designated by the court; or

(3) Require another agency authorized by law to take custody of the property and remove it to an appropriate location.

(c) Property seized under subsection (a) is not subject to [replevin], but is considered to be in the custody of the law enforcement officer making the seizure, subject only to order of the court. However, if a seizure of property is made in accordance with subsection (a), the prosecuting attorney shall promptly bring an action for forfeiture under section 3 [34-4-30.5-3] of this chapter. If an action is not filed within one hundred eighty [180] days after the date of the seizure, the law enforcement agency whose officer made the seizure shall return the property to its owner.

Sec. 5. (a) An aggrieved person may bring an action for injunctive relief from corrupt business influence in a circuit or superior court in the county of the aggrieved person's residence, or in a county where any of the affected real property or the affected enterprise is located. If the court finds, through a preponderance of the evidence, that the aggrieved person is suffering from corrupt business influence, it shall make an appropriate order for injunctive relief. This order must be made in accordance with the principles that govern the granting of injunctive relief from threatened loss or damage in other civil cases, except that a showing of special or irreparable

damage to the aggrieved person is not require. The court may order injunctive relief only after the execution of a bond by the aggrieved person for an injunction improvidently granted, in an amount established by the court. In addition, the court may order a temporary restraining order or a preliminary injunction, but only after a showing of immediate danger of significant loss or damage to the aggrieved person.

(b) An aggrieved person may bring an action against a person who has violated IC 35-45-6-2 in a circuit or superior court in the county of the aggrieved person's residence, or in a county where any of the affected real property or the affected enterprise is located, for damages suffered as a result of corrupt business influence. Upon a showing by a preponderance of the evidence that the aggrieved person has been damaged by corrupt business influence, the court shall order the person causing the damage through a violtion of IC 35-45-6-2 to pay to the aggrieved person:

(1) An amount equal to three (3) times his actual damages;

(2) The costs of the action;

(3) A reasonable attorney's fee; and

(4) Any punitive damages awarded by the court and allowable under law.

(c) The defendant and the aggrieved person are entitled to a trial by jury in an action brought under this section.

(d) An aggrieved person has a right or claim to forfeited property or to the proceeds derived from forfeited property superior to any right or claim the state has in the same property or proceeds.

(e) If the state is an aggrieved person, the attorney general has concurrent jurisdiction with the prosecuting attorney to bring an action under this section.

Sec. 6. In any action brought under this chapter, the principle of collateral estoppel operates to bar relitigation of the issues previously determined in a criminal proceeding under IC 35-45-6-2.

CHAPTER 6
RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS
(CRIMINAL RICO STATUTE)

Sec. 1. As used in this chapter:

"Documentary material" means any document, drawing, photogrph, recording, or other tangible item containing compiled data from which information can be obtained or can be translated into a usable form.

"Enterprise" means a:

(1) Sole proprietorship, corporation, partnership, business trust, or governmental entity; or

(2) Union, association, or group, whether a legal entity or merely associated in fact.

"Pattery of racketeering activity" means engaging in at least two [2] incidents of racketeering activity that have the same or similar intent, result, accomplice, victim, or method of commission, or that are otherwise interrelated by distinguishing characteristics that are not isolated incidents; however, the incidents are a pattern of racketeering activity only if at least one of the incidents occurred after August 31, 1980, and if the last of the incidents occurred within five [5] years after a prior incident of racketeering activity.

"Racketeering activity" mean to commit, to attempt to commit, or to conspire to commit a violation, or aiding and abetting in a violation, of a provision of IC 23-2-1, or of a rule or order issued under IC 23-2-1; a violation of IC 35-47; a violation of IC 35-49-3; murder (IC 35-42-1-1); battery as a class C felony (IC 35-42-2-1); kidnapping (IC 35-42-3-2); child exploitation (IC 35-42-4-4); robbery (IC 35-42-5-1); arson (IC 35-43-1-1); burglary (IC 35-43-2-1); theft (IC 35-43-4-2); receiving stolen property (IC 35-43-4-2); forgery (IC 35-43-5-2); fraud (IC 35-43-5-4); bribery (IC 35-44-1-1); offical misconduct (IC 35-44-1-2); conflict of interest (IC 35-44-1-3); perjury (IC 35-44-2-1); tamper-

ing (IC 35-44-3-4); intimidation (IC 35-45-2-1); promoting prostitution (IC 35-45-4-4); promoting professional gamblins (IC 35-45-5-4); dealing in cocaine or a narcotic drug (IC 35-48-4-1); dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2); dealing in a schedule IV controlled substance (IC 35-48-4-3); dealing in a schedule V controlled substance (IC 35-48-4-4); or dealing in marijuana, hash oil, or hashish (IC 35-48-4-10).

Sec. 2. (a) A person:

(1) Who has knowingly or intentionally received any proceeds directly or indirectly derived from a pattern of racketeering activity, and who uses or invests those proceeds or the proceeds derived from them to acquire an interest in real property or to establish or to operate an enterprise;

(2) Who through a pattern of racketeering activity, knowingly or intentionally acquires or maintains, either directly or indirectly, an interest in or control of real property or an enterprise; or

(3) Who is employed by or associated with an enterprise, and who knowingly or intentionally conducts or otherwise participates in the activities of that enterprise through a pattern of racketeering activity; commits corrupt business influence, a Class C felony.

INDIANA CODE SECTION 35-49-2-1

DEFINITION OF OBSCENE MATTER OR PERFORMANCE

Sec. 1. A matter of performance is obscene for purposes of this article if:

(1) The average person, applying contemporary community standards, finds that the dominant theme of the matter or performance, taken as a whole, appeals to the prurient interest in sex;

(2) The matter or performance depicts or describes, in a patently offensive way, sexual conduct; and

(3) The matter of performance, taken as a whole, lacks serious literary, artistic, political, or scientific value. [IC 35-49-2-1, as added by P.L. 311-1983, 33.]

Indiana Code Section 35-49-3-1. A person who knowingly or intentionally:

(1) Sends or brings into Indiana obscene matter for sale or distribution; or

(2) Offers to distribute, distributes, or exhibits to another person obscene matter;

commits a class A misdemeanor. However, the offense is a class D felony if the obscene matter depicts or describes sexual conduct involving any person who is or appears to be under sixteen [16] years of age.

Indiana Code Section 35-49-1-9 "Sexual conduct" means:

(1) Sexual intercourse or deviate sexual conduct;

(2) Exhibition of the uncovered genitals in the context of masturbation or other sexual activity;

(2) Exhibition of the uncovered genitals of a person under sixteen [16] years of age;

(4) Sado-masochistic abuse; or

(5) Sexual intercourse or deviate sexual conduct with an animal.